

1 AN ACT concerning mistrials in capital cases.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by adding Section 115-21 as follows:

6 (725 ILCS 5/115-21 new)

7 Sec. 115-21. Prosecutor's misconduct; mistrial.

8 (a) The court may declare a mistrial in a capital case on  
9 the grounds of a prosecutor's misconduct during trial that  
10 the court determines is sufficiently material to affect the  
11 reliability of the verdict. Instances of such misconduct  
12 include, without limitation, a prosecutor's ad hominem attack  
13 on the defendant during the prosecutor's closing argument and  
14 a prosecutor's making of improper inferences from the  
15 defendant's failure to testify on his or her own behalf.

16 (b) The court may declare a mistrial under this Section  
17 on the defendant's oral or written motion or on the court's  
18 own motion. The motion may be made at any time during the  
19 course of the trial.

20 (c) The court may impose sanctions against a defendant's  
21 counsel if the court determines that the counsel made a  
22 motion under this Section other than in good faith. For  
23 purposes of this subsection, a counsel's motion shall be  
24 considered to be in good faith if the counsel reasonably  
25 believed that the prosecutor's conduct was sufficient to  
26 warrant the court to declare a mistrial under this Section.

27 Section 99. Effective date. This Act takes effect upon  
28 becoming law.